

WASHINGTON, DC – Congressman Robert C. "Bobby" Scott (VA-03), Ranking Member of the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security, issued the following statement regarding the Supreme Court's decisions in *Dorsey v. United States*, No. 11–5683, and *Hill v. United States*, No. 11–5721:

"Today's decisions determined that Congress intended to have the new 18 to 1 sentencing differential between powder and crack cocaine apply to cases that were pending for sentencing when the Fair Sentencing Act (FSA) passed on August 3, 2010, as opposed to applying the 100 to 1 sentencing differential in effect when the defendants' violation occurred. Under the 100 to 1 sentencing differential, selling 5 grams of crack cocaine resulted in a 5 year mandatory minimum sentence whereas selling 500 grams of powder cocaine would be required to trigger the same 5 year mandatory minimum sentence. Under the FSA, 28 grams of crack cocaine is now the threshold for a 5 year mandatory minimum sentence, reducing the ratio from 100 to 1 to 18 to 1.

"The Court's decision is good news. It is clear that Congress intended to stop the further imposition of unfair sentences upon enactment of the FSA. To continue allowing the imposition of sentences that had been declared unfair would make a mockery of the law and those being unfairly sentenced in the face of the change in law. Some courts had been imposing sentences pursuant to the old 100 to 1 differential while other courts had been using the new law as a basis for sentencing. The Supreme Court has made it clear that all sentences imposed after enactment of the Fair Sentencing Act should use the new law as the basis for sentencing.

"However, we still have more injustice to rectify regarding the unfairness in cocaine sentences. Many crack offenders are still serving mandatory 100 to 1 sentences that were imposed prior to the effective date of the FSA. These offenders remain in prison even though Congress has passed a law that has concluded that the 100 to 1 differential was not fair. I have introduced H.R. 2316, along with 10 cosponsors, which would permit the sentencing court to retroactively apply the FSA in appropriate cases.

"In addition, the FSA itself, while a tremendous improvement over the 100 to 1 disparity in cocaine sentencing between the crack and powder forms, still retains a scientifically unsupportable 18 to 1 disparity in sentencing between two forms of the same drug. To fully obtain justice, Congress must pass legislation that treats cocaine as cocaine, no matter the form it takes. I have therefore introduced H.R. 2242, along with 16 cosponsors, which will eliminate the different penalties for crack cocaine and powder cocaine, as well as eliminate mandatory minimum penalties for all cocaine offenses.

"Nevertheless, today's decision by the Supreme Court is another important step toward providing relief to those treated unfairly by crack sentencing laws and is consistent with Congressional intent."

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